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March 24, 2023

VIA EMAIL & CM/ECF

Hon. John P. Cronan
CronanNYSDChambers@nysd.uscourts.gov

**Re: *Berger Montague PC v. Robinhood Financial, LLC*, No. 1:23-mc-75-JPC;
Moore, et al. v. Robinhood Financial, LLC, No. 1:23-mc-76-JPC**

Your Honor,

I write on behalf of Movants in the above listed matters, pursuant to Your Individual Rules & Practices in Civil Cases, to respectfully request the Court (1) align the briefing schedules and hearings on the motions to quash in the two matters, and (2) allow Movants to file replies in support of the motions to quash.¹

On March 21, 2023, Berger Montague PC, Cooper Moore and Andrew Gillette, and Season4, LLC filed three motions to quash the same subpoena issued by Robinhood Financial, LLC to Season4, LLC in the underlying action *Moore, et al. v. Robinhood Financial, LLC*, No. 2:21-cv-01571-BJR (W.D. Wash.). These motions resulted in two miscellaneous dockets in this Court, No. 23-mc-75 and No. 23-mc-76.

On March 22, 2023, the Court entered an order in No. 23-mc-75, setting the deadline for opposition to Berger Montague's motion to quash for April 7, 2023 and a telephonic hearing on April 17, 2023. (ECF No. 11, No. 23-mc-75.) This order does not reference the second motion to quash filed on the same docket by Season4, LLC, and does not list a reply deadline for Movant.

On March 23, 2023, the Court entered an order in No. 23-mc-76, setting the deadline for opposition to Plaintiffs' motion to quash for April 14, 2013, and a telephonic hearing on April 24, 2023. The order does not reference a reply deadline for Movants. (ECF No. 13, No. 23-mc-76.)

¹ Berger Montague PC represents Movants Cooper Moore and Andrew Gillette, and itself for purposes of the Motions before the Court. I have conferred with counsel for Movant Season4, LLC and Season4, LLC also joins the requests made herein.

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The three pending motions to quash are directed at the same subpoena and were filed by the separate Movants given differing standing positions, but otherwise cover similar grounds and all seek to quash the subpoena in full. It is in the interest of efficiency and conservation of the Court's and the parties' resources to have the briefing of the motions align so that the Court hears them at the same conference.

Additionally, in the circumstance of a miscellaneous action, which exists for the sole purpose of determining a motion to quash, the motion to quash is dispositive. *See, e.g., In re Rule 45 Subpoena Issued to Cablevision Sys. Corp.*, No. 08-mc-347, 2010 WL 2219343, *1, n.1 (E.D.N.Y. Feb. 5, 2010) (finding that "motions to quash a subpoena brought in a proceeding before a court other than the one determining the action are typically treated as dispositive motions" and collecting cases in support). Thus, Movants request leave to file replies in support of their motions.

Therefore, all three Movants respectfully request the Court enter an order on both 23-mc-75 and 23-mc-76 setting the following briefing schedule on the three motions to quash:

1. Robinhood Financial, LLC shall file its oppositions to each of the motions on or before April 14, 2023;
2. Berger Montague, Cooper Moore and Andrew Gillette, and Season4 shall file replies in support of their respective motions on or before April 21, 2023; and
3. The Court shall hold its telephonic conference already set for April 24, 2023 at 12:00 p.m. EST, on all three motions to quash, and will vacate the April 17 conference.

I have conferred with Respondent Robinhood Financial, LLC. Robinhood joins in the request for a consolidated briefing and hearing schedule and does not oppose Movants' request for leave to file reply briefs.

Sincerely,

/s/E. Michelle Drake
E. Michelle Drake, *pro hac vice pending*
Counsel for Movants
Cooper Moore and Andrew Gillette &
Berger Montague PC

cc: Counsel for Robinhood Financial, LLC (via email)

Robinhood Financial LLC may file one opposition brief in response to each of the motions in 23-mc-75 and 23-mc-76, on or before April 12, 2023. That brief shall be filed in both 23-mc-75 and 23-mc-76. Movants shall file their reply by April 19, 2023. The conference currently scheduled for April 17, 2023 is adjourned to April 24, 2023, at 12:00 p.m. EST via telephone, and at that conference, the Court will address all motions. At the scheduled time, counsel for all parties should call (866) 434-5269, access code 9176261.

The Clerk of Court is respectfully directed to tag 23-mc-75 and 23-mc-76 as related cases, to docket this order in both cases, and to close Docket Numbers 14 and 17 in 23-mc-75 and Docket Numbers 10 and 14 in 23-mc-76.

SO ORDERED.

March 27, 2023

New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", written over a horizontal line.

JOHN P. CRONAN

United States District Judge